

In order for a transaction to qualify for the Farm machinery & Equipment exemption, a purchaser must intend to use the item being purchased primarily in production agriculture or in State or federal agricultural programs. See 86 Ill. Adm. Code 130.305. (This is a GIL.)

December 31, 1998

Dear Mr. Xxxxx:

This letter is in response to your letter that we received on August 25, 1998. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

I have a client that is building a confinement hog build. This will be a single purpose building costing around \$200,000. Will the building qualify as being exempt from sales tax because of agriculture use? Will feeders, augers, flex lines, etc. be exempt? Will the slats or wire mesh used as flooring, which will have to be replaced every 7-10 years be exempt?

....

If you have any questions please give me a call at ####.

Even though sales may be at retail, the Illinois Retailers' Occupation Tax (i.e. sales tax) does not apply to sales of machinery and equipment used primarily in production agriculture or in State or federal agricultural programs. Machinery means major mechanical machines or major components thereof contributing to the production agriculture process or used primarily in State or federal agricultural programs. Equipment means any independent device or apparatus separate from any machinery, but essential to production agriculture.

Please be informed that for purposes of the exemption, farm machinery does not include improvements to real estate such as fences, barns, grain bins, silos and confinement buildings. See 86 Ill. Adm. Code 130.305(i), enclosed. Similarly, equipment does not include ordinary building materials to be permanently affixed to real estate, Section 130.305(k). However, certain machines and equipment may qualify even though they are installed as realty improvements. Some examples are augers, grain dryers (heaters and fans), automated livestock feeder bunks (but not ordinary building materials), specialty

heating and lighting equipment specifically required for the production process, i.e., ultraviolet lights, and specialty heaters for incubation, farrowing crates, and portable panels for confinement facilities and flooring used in conjunction with waste disposal machinery. See 86 Ill. Adm. Code 130.305(i) and (k).

Please note that Section 130.305(i) provides further that "[A] person (such as a plumbing contractor) who contracts to provide and install an exempt machine or equipment permanently into real estate must obtain an exemption certificate from the person purchasing the machine. The contractor must furnish certification to the seller, attaching the certificate of the purchaser in order to claim the exemption."

I hope this information is helpful. The Department of Revenue maintains a Web site which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Karl Betz
Associate Counsel

KB:msk
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